

EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Methyl Tertiary Butyl:MDL NO. 1358 (SAS)
Ether ("MTBE") :
Products Liability :
Litigation :

In Re:

City of New York

CONFIDENTIAL (Per 2004 MDL 1358 Order)

November 19, 2008

Videotaped Deposition of
VIRGINIA MURRAY, 30(b)(6) witness re
taste and odor, held at McDermott, Will
& Emery, 340 Madison, New York, New
York 10173, beginning at approximately
9:38 a.m., before Ann V. Kaufmann, a
Federally approved Registered
Professional Reporter, Certified
Realtime Reporter, and a Notary Public.

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<p>1 issue given that the City, at least in 2 the normal course of those documents 3 being produced, it was made clear to 4 defendants that we -- excuse me, we, the 5 City of New York does not necessarily 6 provide that information. 7 MR. CONDRON: I didn't 8 follow that. 9 MR. STACK: Are you 10 directing the witness not to answer? 11 MR. PASTERNAK: No, I'm 12 not. I just want to make clear on the 13 record that the question being posed may 14 be exploring an area of expert testimony 15 regarding correlation that the City 16 doesn't normally undertake. 17 MR. STACK: Can you read 18 that back, Ann? 19 I'll have the court reporter 20 read it back. 21 THE WITNESS: Thank you. 22 (The court reporter read the 23 record as follows: 24 "QUESTION: In reviewing the</p>	<p>1 Q. And with regard to the 2 complaints that you reviewed in these 3 boxes, did you at any time attempt to 4 determine which of the complaints were 5 among those instances where you actually 6 conducted VOC sampling? 7 MR. PASTERNAK: Same 8 objection. 9 A. There was one particular 10 consumer who we had VOC data for where 11 MTBE did show up. However, the 12 complaint was not specifically for taste 13 and odor. It was an oil and grease 14 complaint. It was a sheen on the 15 water. And typically when these type of 16 complaints come in, they are -- even 17 though there might be taste and odor 18 associated with this oily sheen, it's 19 given a grease and oil, sorry, code so 20 this way that would direct us to then 21 sample for volatile organics. 22 Q. And with respect to this 23 particular complaint, was it one of the 24 oil and grease complaints in which the</p>
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<p>1 two boxes of scanned complaint forms, 2 did you undertake any analysis at any 3 time to identify the complaints in those 4 boxes which you believe were caused by 5 the presence of MTBE in the City's water 6 supply?") 7 THE WITNESS: So are you 8 saying did I look at these complaints 9 and try to determine that these 10 complaints were the result of MTBE? 11 BY MR. STACK: 12 Q. Correct. 13 A. Well, before I answer that, 14 I would like to say that taste and odor 15 complaints routinely are not -- a VOC 16 sampling is not conducted for all taste 17 and odor complaints. So by looking at 18 various taste and odor complaints, for 19 most of them I would not be able to say 20 that MTBE -- that the complaint was 21 caused by MTBE simply because for the 22 majority or for 99% of our sampling, we 23 do not test for VOCs in consumer 24 complaint sampling.</p>	<p>1 complainant noted that there was 2 construction ongoing in the neighborhood 3 and they attributed the oil and grease 4 in the water to construction activities? 5 A. I did not see the actual 6 complaint card. I just saw a 7 spreadsheet with the data on it, so -- 8 and I looked it up in the logbook and 9 there was no record of the complainant 10 specifying construction. But just 11 because it wasn't in the logbook doesn't 12 mean it wasn't on the sample card. 13 Q. Apart from this one 14 complaint in which you were able to 15 identify testing at the tap for the 16 customer's complaint, were there any 17 others, among those in the two boxes of 18 scanned complaints that you looked at 19 for Queens, in which you were able to 20 identify an instance that MTBE was 21 detected in the customer's tap? 22 A. Yes. There were a couple 23 of other complainants, maybe three or 24 four, that had trace amounts of MTBE</p>

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<p>1 showing up.</p> <p>2 Q. And as part of your</p> <p>3 preparation for this deposition, did you</p> <p>4 list out those instances, the one</p> <p>5 consumer with the oil and grease</p> <p>6 complaint and the other three to four in</p> <p>7 Queens, in which there was a detection</p> <p>8 of MTBE for the complaints that you</p> <p>9 reviewed in the two boxes?</p> <p>10 MR. PASTERNAK: Objection,</p> <p>11 vague, "list out."</p> <p>12 BY MR. STACK:</p> <p>13 Q. Did you identify, list,</p> <p>14 compile, otherwise --</p> <p>15 A. It was --</p> <p>16 Q. -- in some written form</p> <p>17 provide a compilation of the specific</p> <p>18 complaints in which this witness in</p> <p>19 reviewing the box in preparing for this</p> <p>20 deposition actually identified the</p> <p>21 complaints in which there was</p> <p>22 corresponding test results? That's the</p> <p>23 question.</p> <p>24 A. The data was in one of the</p>	<p>1 A. Okay.</p> <p>2 Q. With regard to the</p> <p>3 spreadsheet described in Paragraph 10,</p> <p>4 qns_Complaints_080612VX.xls, did you</p> <p>5 prepare that spreadsheet?</p> <p>6 A. No, I did not.</p> <p>7 Q. Did anyone in your unit</p> <p>8 prepare that spreadsheet?</p> <p>9 A. Yes.</p> <p>10 Q. Who prepared it?</p> <p>11 A. I believe it was prepared</p> <p>12 by Lin Lu, and then and the VX would</p> <p>13 indicate that it was either appended</p> <p>14 to -- the data itself was prepared by</p> <p>15 Lin Lu. VX is Vicky Xu, X-U, and she</p> <p>16 just added a -- she added a sheet that</p> <p>17 had the -- like a legend to what the</p> <p>18 spreadsheet -- some of the</p> <p>19 abbreviations. So she saved it with her</p> <p>20 initials.</p> <p>21 Q. And Ms. Xu, X-U?</p> <p>22 A. Xu.</p> <p>23 Q. Xu, she is a City employee?</p> <p>24 A. Yes.</p>
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<p>1 spreadsheets that was provided and I</p> <p>2 think that you reference in your</p> <p>3 deposition.</p> <p>4 Q. And the data you are</p> <p>5 referring to is data in a spreadsheet</p> <p>6 from the City's lab?</p> <p>7 A. Yes.</p> <p>8 Q. You indicated that you</p> <p>9 looked at spreadsheets. Specifically</p> <p>10 which spreadsheets did you review for</p> <p>11 purposes of preparing for this</p> <p>12 deposition? And if you want to look at</p> <p>13 Paragraph 8, 9, 10 in there, please, by</p> <p>14 all means, do so.</p> <p>15 A. Yes, I looked at the 9 and</p> <p>16 10 and I think 8 has an incorrect name.</p> <p>17 I looked at a spreadsheet called</p> <p>18 groundwater service area. It was not</p> <p>19 Excell. But it did have a complaint</p> <p>20 something tab on it.</p> <p>21 Q. Okay. With respect to --</p> <p>22 let's go backwards. And number 8 seems</p> <p>23 to be somewhat problematical,</p> <p>24 Ms. Murray.</p>	<p>1 Q. Does she work directly</p> <p>2 under your supervision?</p> <p>3 A. No.</p> <p>4 Q. For whom does she work?</p> <p>5 A. She works for Lin Lu.</p> <p>6 Q. And with regard to the</p> <p>7 Queens complaint spreadsheet, when did</p> <p>8 you first review that document?</p> <p>9 A. Recently.</p> <p>10 Q. And by "recently" what do</p> <p>11 you mean, approximately?</p> <p>12 A. Probably since I got the</p> <p>13 deposition.</p> <p>14 Q. Deposition notice?</p> <p>15 A. Notice.</p> <p>16 Q. Fair enough.</p> <p>17 A. Correct.</p> <p>18 Q. And with respect to that</p> <p>19 spreadsheet, did you for that</p> <p>20 spreadsheet attempt to identify the lab</p> <p>21 data that corresponded to any of the</p> <p>22 test results reported on this</p> <p>23 spreadsheet?</p> <p>24 A. I'm sorry.</p>

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<p>1 Q. The spreadsheet included</p> <p>2 reported test results; am I correct?</p> <p>3 A. That's the spreadsheet that</p> <p>4 had the whatever, organic data, volatile</p> <p>5 organic data from any consumer taps over</p> <p>6 whatever time period was requested,</p> <p>7 so....</p> <p>8 Q. And as part of your</p> <p>9 preparation for this deposition, did you</p> <p>10 request the laboratory provide you with</p> <p>11 the laboratory test reports for those</p> <p>12 specific complaints?</p> <p>13 A. No.</p> <p>14 Q. Did you, as part of your</p> <p>15 work in this case, review any of the</p> <p>16 laboratory QA/QC data accompanying the</p> <p>17 analysis of these samples?</p> <p>18 A. No, I did not.</p> <p>19 Q. Did you look at any of the</p> <p>20 complaint cards?</p> <p>21 A. No, I did not.</p> <p>22 Q. Did you look at any of the</p> <p>23 complaint logs?</p> <p>24 A. Yes.</p>	<p>1 database, did you speak to any of the</p> <p>2 City employees relative to the detection</p> <p>3 of contaminants in the tap water of</p> <p>4 those complaining customers?</p> <p>5 MR. PASTERNAK: Objection,</p> <p>6 vague.</p> <p>7 A. Yeah, I'm not really sure</p> <p>8 what you are getting at.</p> <p>9 Q. You looked at this</p> <p>10 complaint form -- pardon me, the</p> <p>11 spreadsheet Qns_Complaints_080612VX;</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. After you looked at it, did</p> <p>15 you speak to any of your fellow</p> <p>16 employees in the City to obtain</p> <p>17 information about what was in that</p> <p>18 spreadsheet?</p> <p>19 A. No.</p> <p>20 Well, I -- the only one is</p> <p>21 we tried to find out who had generated</p> <p>22 the spreadsheet. And as far as the data</p> <p>23 within, no.</p> <p>24 Q. And with respect to this</p>
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<p>1 Q. And for each of the</p> <p>2 complaints identified on the spreadsheet</p> <p>3 Qns_Complaints_080612VX, did you have a</p> <p>4 complaint log for each of those?</p> <p>5 A. It would be -- all</p> <p>6 complaints are logged into a logbook,</p> <p>7 so, yes. Did I look specifically at</p> <p>8 each one in the logbook? No, but</p> <p>9 they're there.</p> <p>10 Q. Did you review any letters</p> <p>11 written by the City to the complaining</p> <p>12 customer reporting on the results of</p> <p>13 sampling of their water supply?</p> <p>14 A. For a customer relating to</p> <p>15 this database?</p> <p>16 Q. Correct. And I will</p> <p>17 rephrase it.</p> <p>18 With regard to the database</p> <p>19 Qns_Complaints_080612VX, did you</p> <p>20 specifically look for and review any</p> <p>21 letters that were sent to these</p> <p>22 complaining customers?</p> <p>23 A. No.</p> <p>24 Q. With regard to that</p>	<p>1 particular spreadsheet,</p> <p>2 Qns_Complaints_080612VX, you determined</p> <p>3 it was assembled by Lin Lu?</p> <p>4 A. Yes.</p> <p>5 Q. And did you speak to</p> <p>6 Mr. Lin Lu relative -- is it Mr. or Ms?</p> <p>7 A. Mr.</p> <p>8 Q. Mr. Lin Lu relative to</p> <p>9 assembling this particular spreadsheet?</p> <p>10 A. No, I did not.</p> <p>11 Q. Did you make any inquiry of</p> <p>12 any other employees of the City of New</p> <p>13 York relative to the information</p> <p>14 contained on the spreadsheet identified</p> <p>15 Qns_Complaints_080612VX?</p> <p>16 A. Just Lin Lu and Vicky Xu.</p> <p>17 Q. And did you actually speak</p> <p>18 to Vicky Xu?</p> <p>19 A. Yes, because I was trying</p> <p>20 to determine who generated the</p> <p>21 spreadsheet.</p> <p>22 Q. And apart from determining</p> <p>23 who generated the spreadsheet, did you</p> <p>24 discuss with her other aspects of the</p>

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<p>1 information contained in it?</p> <p>2 A. No.</p> <p>3 Q. With respect to the</p> <p>4 spreadsheet identified in Paragraph 9,</p> <p>5 which is (Redacted) TASTE ODOR</p> <p>6 COMPLAINTS 1994 to 2008.xls, did you</p> <p>7 specifically review that spreadsheet?</p> <p>8 A. Yes.</p> <p>9 Q. And did you determine who</p> <p>10 created it?</p> <p>11 A. That was initially created</p> <p>12 by Aspa Capetanakis and then when she</p> <p>13 left and Arthur Tringali took her job,</p> <p>14 then he perpetuated the spreadsheet.</p> <p>15 Q. And the spreadsheet that is</p> <p>16 identified as (Redacted) TASTE ODOR</p> <p>17 COMPLAINTS 1994 to 2008.xls, is that</p> <p>18 something that's maintained in the</p> <p>19 ordinary course of business in your</p> <p>20 office?</p> <p>21 A. Yes.</p> <p>22 Q. And the current individual</p> <p>23 who is the person responsible for</p> <p>24 updating, is that Mr. Tringali or is</p>	<p>1 the lab. If we get over 10,000 to</p> <p>2 15,000 complaints every year, that boils</p> <p>3 down to a lot of complaint cards. So,</p> <p>4 no.</p> <p>5 Q. And with regard to the</p> <p>6 complaint cards, are they known within</p> <p>7 the department by any other name?</p> <p>8 Mr. Hurley referred to blue cards and</p> <p>9 white cards.</p> <p>10 A. Well -- okay. For</p> <p>11 complaints we used to have yellow cards</p> <p>12 that we used for complaints and special</p> <p>13 investigations. We wanted to separate</p> <p>14 the complaints from the special</p> <p>15 investigation. So several years ago, I</p> <p>16 don't know what year, we just -- we went</p> <p>17 to green cards. But that's also in the</p> <p>18 sampling site plan. If you look at the</p> <p>19 different sampling site plans, it will</p> <p>20 tell you green card, yellow card, what</p> <p>21 the card looks like, what each field,</p> <p>22 what kind of data is generated or input</p> <p>23 into each field. So originally they</p> <p>24 could have been yellow cards; then it</p>
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<p>1 it --</p> <p>2 A. No. There's a third person</p> <p>3 who's newly -- the new complaint or</p> <p>4 special investigation coordinator.</p> <p>5 Q. And who is that individual</p> <p>6 today?</p> <p>7 A. That is Ralph Riccardi.</p> <p>8 Q. And when did Mr. Riccardi</p> <p>9 assume that position?</p> <p>10 A. Recently. Within the last</p> <p>11 year.</p> <p>12 Q. And with regard to the</p> <p>13 taste and odor complaints database, did</p> <p>14 you for each of those taste and odor</p> <p>15 complaints review a complaint card?</p> <p>16 A. I did not review any</p> <p>17 complaint cards.</p> <p>18 Q. Why did you not review</p> <p>19 complaint cards? It could be too</p> <p>20 voluminous to maybe they don't exist?</p> <p>21 A. Because they are too</p> <p>22 voluminous. There's boxes and boxes. A</p> <p>23 complaint card is generated for every</p> <p>24 sample, complaint sample that comes into</p>	<p>1 was switched to green cards.</p> <p>2 Blue cards have nothing to</p> <p>3 do with complaints.</p> <p>4 Q. Blue cards pertain to what,</p> <p>5 as best you understand it?</p> <p>6 A. The blue cards are for</p> <p>7 compliance sampling, which is the main</p> <p>8 focus of our laboratory. When we -- we,</p> <p>9 as a big water supplier, we will respond</p> <p>10 to consumer complaints, but this is a</p> <p>11 complimentary type of sampling</p> <p>12 analysis. We're not required to sample</p> <p>13 for consumer complaints. Our main focus</p> <p>14 is on compliance sampling, which is</p> <p>15 deemed -- regulated by state and federal</p> <p>16 regulations. So as a courtesy we will</p> <p>17 respond to consumer complaints, but it</p> <p>18 is not the main focus of our</p> <p>19 laboratory.</p> <p>20 Q. With respect to the</p> <p>21 preparation that you undertook for this</p> <p>22 deposition, did you relate it to the</p> <p>23 TASTE ODOR COMPLAINTS 1994 to 2008.xls</p> <p>24 database, look at any letters responding</p>

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<p>1 going off the record. The time is 2 10:41 a.m. This is the end of Tape 1 of 3 the deposition of Virginia Murray. 4 (Recess.) 5 THE VIDEOGRAPHER: We are 6 back on the record. The time is 7 10:52 a.m. This is the start of Tape 2 8 of the deposition of Virginia Murray. 9 BY MR. STACK: 10 Q. When we broke you were 11 talking about your discussions with 12 Ms. Capetanakis, and I think it's 13 appropriate now to focus on the claims 14 process which you have touched upon for 15 at least the special investigations 16 coordinator. 17 For purposes of this 18 deposition, did you undertake to inform 19 yourself about the claims -- pardon me, 20 complaint intake and processing employed 21 by the City of New York since 1996? 22 A. Did I -- 23 Q. Did you attempt to inform 24 yourself about what the process was</p>	<p>1 Q. And can you recall 2 approximately when it was that the 311 3 service replaced 718-DEP-HELP? 4 A. It was when Mayor Bloomberg 5 came to town, I believe, so maybe it was 6 seven or eight years ago or six or seven 7 years ago. 8 Q. With respect to the 9 718-DEP-HELP line, that was manned 24 10 hours a day? 11 A. Yes. 12 Q. And the people who manned 13 the complaint line 718-DEP-HELP, were 14 they all City employees? 15 A. I believe so. 16 Q. The complaint line you say 17 then would take the complaints, and my 18 words, not yours, distribute them to 19 certain people, be it sewer or water or 20 by borough; am I correct? 21 A. Correct. 22 Q. Now, what criteria, if you 23 know, did the complaint line personnel 24 employ to classify the type of</p>
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<p>1 for -- 2 A. I know the process. I was 3 here for the duration, so I remember. 4 Certain things I remember. 5 Q. Certain things. With 6 regard to the claims intake process, if 7 a customer wants to register a complaint 8 with the City back in 1996, what was the 9 organization that that individual was 10 directed to? 11 A. There was a phone number 12 718-DEP-HELP, which were for water and 13 sewer complaints. It was a specific DEP 14 hotline, so to speak. I was -- the 15 operators would then process the call, 16 and depending on the nature of the 17 complaint, they would funnel the 18 complaints to the various -- I think it 19 might have been the borough yards. 20 Q. And the complaint line -- 21 my words, not yours, but the complaint 22 line 718-DEP-HELP, is that still in 23 existence today? 24 A. No. Right now it's 311.</p>	<p>1 complaint? 2 A. It was textual, so they 3 would just type whatever the complainant 4 told them over the phone and then I 5 believe they would fax -- I don't know 6 how, if it was a fax or it was, you 7 know, a teleprompt -- tele -- whatever 8 they used to use back then, it wasn't 9 computerized, to each borough yard; 10 okay? And then the borough yard would 11 then take a look at the complaint and if 12 it had something to do with water 13 quality, they would fax it to then to 14 our office. 15 Q. And in those instances 16 where there were water quality problems 17 faxed to your office, were they routed 18 to a special investigations coordinator? 19 A. Yes, she would pick up the 20 faxes every morning and log them into 21 the logbook. 22 Q. And once the special 23 investigations coordinator logged them 24 into the logbook, thereafter the</p>

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<p>1 MR. PASTERNAK: Objection,</p> <p>2 vague, "doing something."</p> <p>3 A. I can answer that.</p> <p>4 First of all, we never</p> <p>5 found orthophosphate -- in my</p> <p>6 recollection, orthophosphate levels were</p> <p>7 generally pretty stable. So if an</p> <p>8 occurrence came where the person in the</p> <p>9 field analyzed for an orthophosphate</p> <p>10 sample and came up with an unusual</p> <p>11 result, I'm sure that that person would</p> <p>12 have contacted the base and asked for</p> <p>13 further instruction. But I do not</p> <p>14 recall any time that orthophosphate came</p> <p>15 anywhere near over the limit of our</p> <p>16 field meters.</p> <p>17 Q. With respect to residual</p> <p>18 chlorine, what is the protocol that the</p> <p>19 personnel attending a customer's home to</p> <p>20 conduct sampling are to follow if they</p> <p>21 find residual chlorine at excessive</p> <p>22 levels?</p> <p>23 A. Once again, the residual</p> <p>24 chlorine we tended to go in the opposite</p>	<p>1 for VOCs for the period 1996 up through</p> <p>2 the present, what analytical method was</p> <p>3 used?</p> <p>4 A. 524.2.</p> <p>5 Q. And with respect to the</p> <p>6 results that were obtained, did the City</p> <p>7 send the complaining customer a copy of</p> <p>8 a lab sheet showing the results of the</p> <p>9 524.2 analysis?</p> <p>10 A. I'm not certain about</p> <p>11 that. I'm sure if there were any --</p> <p>12 anything above the MCL, the maximum</p> <p>13 contaminant level, I'm sure that would</p> <p>14 have been highlighted in the letter of</p> <p>15 the report. However, I don't know if we</p> <p>16 would actually present pages upon pages</p> <p>17 of multisyllable compounds which would</p> <p>18 just totally confuse the consumer, which</p> <p>19 would then lead to more telephone calls</p> <p>20 and questions.</p> <p>21 So if there was something</p> <p>22 that was above the MCL or approaching</p> <p>23 the MCL or even present, we would then</p> <p>24 probably mention that in the letter</p>
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<p>1 direction, so we were looking more for</p> <p>2 the lower chlorine values. So we tended</p> <p>3 not to see residual chlorine at such</p> <p>4 high values. If they were what we</p> <p>5 considered high, we would then</p> <p>6 contact -- you know, they would radio</p> <p>7 the results to the base and then someone</p> <p>8 at the base would then contact</p> <p>9 groundwater headquarters and, you know,</p> <p>10 let them know that their residual</p> <p>11 chlorine would exceed -- is exceeding</p> <p>12 what we're -- what they're targeting.</p> <p>13 But, once again, that was never really a</p> <p>14 problem. The problem sometime was lack</p> <p>15 of chlorine, so that was more of an</p> <p>16 indicator.</p> <p>17 Q. And when you say they</p> <p>18 called the base for the Borough of</p> <p>19 Queens, what does that mean?</p> <p>20 A. The base is the</p> <p>21 laboratory. It's the field operations.</p> <p>22 We have a two-way radio in each vehicle.</p> <p>23 Q. When you conducted analyses</p> <p>24 on samples collected at a customer's tap</p>	<p>1 itself. I'm not really sure about</p> <p>2 including all those non-detect results.</p> <p>3 I'd have to check on that, though.</p> <p>4 Q. With respect to notifying</p> <p>5 the customer of the results of testing,</p> <p>6 was there a protocol that the department</p> <p>7 employed regarding what information</p> <p>8 would be reported back to the customer</p> <p>9 after a complaining customer's tap</p> <p>10 sample was analyzed?</p> <p>11 A. Yes. Yeah, yeah, we had</p> <p>12 specific templates that were reported</p> <p>13 back. However, VOC was not a routine</p> <p>14 analysis and we did not test for VOCs on</p> <p>15 -- for routine consumer complaint.</p> <p>16 Q. As part of your preparation</p> <p>17 for this deposition, did you ever</p> <p>18 determine what percentage of consumer</p> <p>19 complaints from Queens were actually</p> <p>20 submitted to the lab for VOC analysis?</p> <p>21 A. I did not.</p> <p>22 Q. With respect to the</p> <p>23 occurrence of VOC testing, did you, in</p> <p>24 preparation for this deposition,</p>

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<p>1 believe the way -- it wasn't even a 2 compound that was measured for under the 3 524 analysis. So I don't think you had 4 to -- and I'm not an expert on this. I 5 want to clarify I'm not an expert, but 6 this is my understanding, is that when 7 we started analyzing volatile organics 8 from these wells, which previously we 9 had just been analyzing volatile 10 organics from surface water, they 11 noticed, I believe, in the data coming 12 from the mass spec that there was an 13 additional peak and that's when they 14 started calibrating the instrument for 15 MTBE. So that's when it was -- when we 16 acquired the groundwater wells is when 17 we started -- shortly thereafter when we 18 started monitoring for MTBE. 19 Q. With respect to customer 20 taste and odor complaints, are there any 21 instances you can recall where there 22 have been specific complaints in which a 23 customer has identified MTBE as the 24 possible cause?</p>	<p>1 the presence of MTBE in the source water 2 or distribution system? 3 A. I cannot recall. However, 4 just because we didn't test for the MTBE 5 does not mean it wasn't there. So 6 people may have complained taste and 7 odor complaints, they may have been 8 smelling MTBE, but it was not a course 9 of our routine response to consumer 10 complaints, so we did not collect VOC 11 samples. 12 So specifically, did people 13 complain specifically about MTBE? No. 14 I don't think most people knew what MTBE 15 was. 16 MR. CONDRON: Move to 17 strike as nonresponsive. 18 BY MR. STACK: 19 Q. And the focus of my 20 question -- and if I have been inartful, 21 I apologize. I'm asking if you, as an 22 employee of the City, can recall 23 instances where you or your fellow 24 employees associated customer taste and</p>
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<p>1 A. Not that I can recall. 2 Q. In the context of your 3 experience with the City, are there any 4 instances where you, as a City employee, 5 or your fellow employees have 6 specifically identified MTBE as the 7 cause of a specific customer complaint 8 in Queens? 9 MR. PASTERNAK: Again, I 10 just renew the objection that Ms. Murray 11 is not here as an expert with respect to 12 any kind of correlation that should be 13 done on top of what the City routinely 14 does in its ordinary course of business. 15 MR. STACK: And I appreciate 16 that and I will clarify this question is 17 not eliciting expert opinion and I will 18 repeat it. 19 BY MR. STACK: 20 Q. In your experience with the 21 City of New York, can you recall any 22 instances where you or your fellow 23 employees associated specific customer 24 taste and odor complaints in Queens with</p>	<p>1 odor complaints in Queens with the 2 presence of MTBE in any well? 3 A. No. 4 Q. Did you at any point in 5 time in your career associate customer 6 taste and odor complaints in Queens with 7 the presence of MTBE somewhere in the 8 water distribution system in Queens 9 Borough? 10 MR. PASTERNAK: Again, same 11 objection with respect to Ms. Murray not 12 being here as an expert on the 13 correlation; only with respect to what 14 was done by the City in its ordinary 15 course of business. 16 A. No, we did not correlate 17 between MTBE and consumer complaints. 18 Q. With respect to your career 19 with the City of New York, I take it 20 from your commentary that it wasn't 21 until sometime in the late 1990s that 22 the compound MTBE was routinely analyzed 23 for in the VOC analysis in the labs; am 24 I correct?</p>

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<p>1 in the late 1990s?</p> <p>2 A. I think it was '99 into</p> <p>3 2000, somewhere around there.</p> <p>4 Q. Prior to that point in</p> <p>5 time, was there any classification</p> <p>6 system to codify taste and odor</p> <p>7 complaints by a descriptor?</p> <p>8 A. Well, that's where we got</p> <p>9 the codes from, is we took a look at how</p> <p>10 we were describing these taste and odor</p> <p>11 codes, and that's where we got the five</p> <p>12 subcategories from. So we found most of</p> <p>13 the taste and odor complaints fell into</p> <p>14 one of five categories.</p> <p>15 Q. And with respect to the</p> <p>16 work that you do for the City, do you</p> <p>17 provide reports to your superiors</p> <p>18 indicating what number of taste and odor</p> <p>19 complaints fall into each of these</p> <p>20 categories?</p> <p>21 A. No.</p> <p>22 Q. With regard to the</p> <p>23 categorization of taste and odor</p> <p>24 complaints, is there any routine</p>	<p>1 required by law. It is something that</p> <p>2 we're doing to try to alleviate problems</p> <p>3 that our consumers are having. However,</p> <p>4 we're responsible only for the water in</p> <p>5 the water mains. Once it leaves the</p> <p>6 water mains, it is out of our domain.</p> <p>7 If a consumer is having a particular</p> <p>8 problem, we will attempt to rectify the</p> <p>9 situation. However, most of our</p> <p>10 resources up at the lab are devoted to</p> <p>11 compliance issues, and we feel that by</p> <p>12 monitoring the source water and certain</p> <p>13 specific sites in our distribution</p> <p>14 system and the three tunnels, whatever,</p> <p>15 we are monitoring all that entry points</p> <p>16 on a routine basis, there should be</p> <p>17 no -- there should be no need to --</p> <p>18 there should be no way that VOCs should</p> <p>19 be able to get into the water unless it</p> <p>20 is coming from the source water.</p> <p>21 Q. Now, with respect to taste</p> <p>22 and odor complaints, in the process of</p> <p>23 responding to those, are there instances</p> <p>24 where there are specific reports that</p>
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<p>1 reporting within the department to</p> <p>2 indicate which types of taste and odor</p> <p>3 complaints are being reported more</p> <p>4 prevalently than others?</p> <p>5 A. No. We just tabulate total</p> <p>6 number of complaints received over a</p> <p>7 certain time, how many resolved.</p> <p>8 Q. And with respect to the</p> <p>9 instances out of the 12,000 that you</p> <p>10 receive, I believe you said it could be</p> <p>11 90 or 99 percent of them you don't do</p> <p>12 VOC testing; am I correct?</p> <p>13 A. I would say correct.</p> <p>14 Q. So is it 99% or 90? I'm</p> <p>15 sorry, that was a lousy question.</p> <p>16 A. I would say the vast</p> <p>17 majority we do not collect VOCs.</p> <p>18 Q. And why is it that you</p> <p>19 don't collect VOC samples for the vast</p> <p>20 majority?</p> <p>21 A. Because we monitor the</p> <p>22 source water. We monitor the source</p> <p>23 water. We -- the consumer complaint --</p> <p>24 response to consumer complaints is not</p>	<p>1 are generated identifying the cause of</p> <p>2 any customer's complaint?</p> <p>3 A. If we do a special</p> <p>4 investigation and we find that something</p> <p>5 was, you know, awry in the system, yes,</p> <p>6 we can then rectify the situation, get</p> <p>7 other bureaus involved to help us</p> <p>8 alleviate whatever is going on in the</p> <p>9 consumer's home, and the letter will</p> <p>10 state such.</p> <p>11 Q. Are there any instances</p> <p>12 that you can recall in your career with</p> <p>13 the City of New York where a taste and</p> <p>14 odor complaint registered by a resident</p> <p>15 in Queens was identified as having been</p> <p>16 caused by gasoline constituents,</p> <p>17 including MTBE, in the distribution</p> <p>18 system?</p> <p>19 A. I don't think so.</p> <p>20 Q. Are there any instances</p> <p>21 where you can recall that your</p> <p>22 department worked with the other</p> <p>23 departments in the City of New York to</p> <p>24 identify a leak or spill of gasoline</p>

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<p>1 odor problems for public water</p> <p>2 purveyors?</p> <p>3 A. No, I did not.</p> <p>4 Q. With regard to your work in</p> <p>5 preparing for this deposition, did you</p> <p>6 look at any taste and odor studies</p> <p>7 relative to the taste or odor threshold</p> <p>8 of MTBE in drinking water?</p> <p>9 A. Honestly, I couldn't</p> <p>10 find -- I would have liked to, but...</p> <p>11 Q. In the course of your</p> <p>12 preparation for this deposition, did you</p> <p>13 look at any reports submitted in any of</p> <p>14 the other multidistrict cases before</p> <p>15 Judge Scheindlin relative to taste and</p> <p>16 odor issues in other cases?</p> <p>17 A. No, I did not.</p> <p>18 Q. Did you undertake to do a</p> <p>19 search on the Internet to identify any</p> <p>20 peer-reviewed articles relative to the</p> <p>21 taste and odor threshold for MTBE in</p> <p>22 drinking water?</p> <p>23 A. No.</p> <p>24 Q. Did you, in the course of</p>	<p>1 designing the complaint cards. I know</p> <p>2 the kind of information that's there.</p> <p>3 So, no, I did not for this specific case</p> <p>4 look at any of -- some of these</p> <p>5 documents.</p> <p>6 Q. Did you for purposes of</p> <p>7 this deposition review complaint cards</p> <p>8 which were related to customer</p> <p>9 complaints where testing had occurred</p> <p>10 for volatiles specifically to prepare to</p> <p>11 testify here today?</p> <p>12 A. I didn't look at complaint</p> <p>13 cards because I know what information is</p> <p>14 going to be on the complaint cards.</p> <p>15 There's not going to be any information</p> <p>16 on that card that's going to be useful</p> <p>17 for this type of deposition.</p> <p>18 Q. And you say that because of</p> <p>19 your experience or because you have</p> <p>20 looked at the cards or both?</p> <p>21 A. Because of both. I know</p> <p>22 what the cards -- I know the information</p> <p>23 on the cards. What's on the green cards</p> <p>24 is just the complainant's name, address,</p>
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<p>1 your work on this matter, review any</p> <p>2 material data safety sheets that were</p> <p>3 issued by any of the defendants</p> <p>4 concerning taste and odor of MTBE in</p> <p>5 drinking water?</p> <p>6 A. No.</p> <p>7 Q. Did you review any product</p> <p>8 safety bulletins concerning the taste</p> <p>9 and odor threshold for MTBE in drinking</p> <p>10 water?</p> <p>11 A. No. I want to backtrack</p> <p>12 and say you keep asking me did I review</p> <p>13 this, did I review that, did I review</p> <p>14 this. And I keep saying no, which may</p> <p>15 seem to you like I'm ill prepared for</p> <p>16 this. But previously you asked me if I</p> <p>17 had looked at cards and I said no</p> <p>18 because I have not looked at cards, I</p> <p>19 have not looked at sample cards. I have</p> <p>20 seen so many sample cards and so many</p> <p>21 complaint cards in my 13 years, there</p> <p>22 was no need for me to look at complaint</p> <p>23 cards. You see one complaint card, you</p> <p>24 know what's on there. I had a part in</p>	<p>1 the location that the sample was taken,</p> <p>2 either the kitchen tap, bathroom tap,</p> <p>3 whether it was a hydrant sample, some of</p> <p>4 the field readings. And then if there</p> <p>5 was any -- I don't know. At the time</p> <p>6 the lab was actually putting data on the</p> <p>7 card as well, but after a while they</p> <p>8 stopped using those cards and they just</p> <p>9 started inputting data into computers.</p> <p>10 So the green cards were just sort of</p> <p>11 like a sample of custody transfer. It</p> <p>12 was like a chain of custody.</p> <p>13 We provided -- we filled</p> <p>14 out a green card or a yellow card prior</p> <p>15 to the green cards, one per sample;</p> <p>16 okay? Kitchen sink, immediate sample,</p> <p>17 here is your field readings. Kitchen</p> <p>18 sink, five-minute sample, the address,</p> <p>19 the consumer's name, whatever, here are</p> <p>20 your five-minute readings. All this</p> <p>21 information got put into a laboratory</p> <p>22 information system, the LIMS system,</p> <p>23 which was computerized. So if you</p> <p>24 wanted to see the data, you didn't have</p>

<p style="text-align: right;">Page 142</p> <p>1 to look at the green card, you could 2 just look at the database. 3 So for me looking at green 4 cards, it was an exercise in futility. 5 Q. And with regard to the 6 complaint cards, are there areas where 7 the sampler can make remarks relative to 8 the conditions that they observed? 9 A. Yes. 10 Q. And did you think, in terms 11 of preparing for the deposition, that 12 there were any comments that might be 13 particularly remarkable for purposes of 14 talking about taste and odor complaints 15 relative to the -- 16 A. That information would have 17 also have been put into the LIMS system. 18 Q. And did you look at all of 19 the LIMS system entries for VOC samples 20 in the Borough of Queens? 21 A. The LIMS system, no, but I 22 think there was another table; I'm not 23 sure which one that was. 24 Q. And we will look at those.</p>	<p style="text-align: right;">Page 144</p> <p>1 the spreadsheet, for example, which is 2 the TASTEODORCOMPLAINTS1994TO2008, the 3 version of that that you looked at and 4 which I looked at, is that the way its 5 kept by Ms. Capetanakis or Mr. Tringali? 6 MR. PASTERNAK: Objection, 7 vague. 8 BY MR. STACK: 9 Q. I'm asking this for a very 10 simple reason. 11 A. Okay. 12 Q. You told me you could 13 import data from different databases. 14 A. Right. 15 Q. So what I'm trying to 16 figure out is -- 17 A. No, export data from LIMS. 18 Q. Correct. And then likely 19 put it somewhere else? 20 A. Well, you make -- right. 21 Q. Okay. 22 A. You don't merge files. You 23 put it in its own. 24 Q. But the taste and odor</p>
<p style="text-align: right;">Page 143</p> <p>1 A. Okay. 2 Q. We're not going to -- it is 3 not a memory test. 4 A. I mean, looking at the 5 cards does nothing for me because all 6 that information is somewhere else, 7 that's my point. 8 Q. So if the -- and I'm just 9 trying to be clear. So I understand 10 you, if the person going to the field 11 and taking the samples observes certain 12 conditions, they record that on the 13 green card and that is then transferred 14 to the Laboratory Information Management 15 System? 16 A. Correct. 17 Q. And is that then put onto 18 any other database that you could review 19 or anyone else in the City could review, 20 like a log or some kind of -- 21 A. Well, you can export that 22 data into one of these spreadsheets. 23 Q. And with regard to the 24 spreadsheets that have been prepared,</p>	<p style="text-align: right;">Page 145</p> <p>1 complaints file listed under paragraph 2 9 -- 3 A. Right, that's a separate. 4 Q. The version that I'm 5 looking at, that version is in a form 6 that's maintained by one of your 7 subordinates in the ordinary course of 8 doing their job? 9 A. Right. 10 Q. And as far as you know, no 11 information was exported from LIMS and 12 added to that just for purposes of the 13 litigation? 14 A. No. 15 Q. With regard to the Queens 16 complaints database that was put 17 together by Mr. Lu and Ms. Xu, that is 18 maintained in the form that we see it in 19 the ordinary course of business? 20 A. I don't think so. I think 21 that that was -- that data was extracted 22 from other places specifically to 23 address at the tap VOC sampling in 24 Queens, I believe.</p>

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VOLUME II

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Methyl Tertiary Butyl:MDL NO. 1358 (SAS)
Ether ("MTBE") :
Products Liability :
Litigation :

In Re:

City of New York

CONFIDENTIAL (Per 2004 MDL 1358 Order)

November 20, 2008

Continued Videotaped
Deposition of VIRGINIA MURRAY, 30(b)(6)
witness re taste and odor, held in the
law offices of McDermott, Will & Emery,
340 Madison, New York, New York 10173,
beginning at approximately 9:39 a.m.,
before Ann V. Kaufmann, a Registered
Professional Reporter, Certified
Realtime Reporter, Approved Reporter of
the U.S. District Court, and a Notary
Public.

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<p>1 A. Each borough has a borough 2 engineer, so we deal with the borough 3 engineer. 4 Q. And with respect to 5 investigation in instances where, as we 6 saw, there was a QD code where there was 7 actually oil and grease being reported 8 in the water, is there an onsite 9 investigation conducted in the field by 10 someone from your office or under 11 Mr. Tringali's direction who actually 12 goes out to find out what the problem 13 is? 14 A. Are you talking about 15 construction in the area? 16 Q. As one example, yes, 17 ma'am. 18 A. That was a bigger 19 investigation than just water quality. 20 That was a broken water main that 21 involved the Bureau of Water and Sewer, 22 their deputy commissioner, and all their 23 construction engineers. That was a big 24 event; and, yes, they did contact Water</p>	<p>1 decision made in the field, may have 2 entailed volatile organic compound 3 testing. 4 So my question to you is, 5 was there ever an instance, apart from a 6 taste and odor complaint, where a 7 complaint was registered of a 8 contaminant visible or contaminant 9 present, in some other manner of 10 perceptive -- perceived by the customer, 11 that you were called into the field to 12 do sampling and the sampling was 13 sampling that showed presence of MTBE in 14 the water system? 15 A. It's possible that we were 16 investigating something and MTBE showed 17 up, but I can't recall any particular 18 instances. 19 Q. You indicated yesterday -- 20 two more subjects to go -- that you were 21 involved in meetings with community 22 groups at times in the course of your 23 job; am I correct? 24 A. Our division was involved.</p>
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<p>1 Quality to come out and take samples, 2 but it was their investigation that we 3 responded to. 4 Q. As I understand it, you 5 actually did participate in that 6 particular incident? 7 A. Yes. 8 Q. Are there any instances 9 that you can recall where there were 10 contaminants present in the water supply 11 system and you were called upon to 12 actually go to the field and conduct 13 sampling and the contaminant of concern 14 was MTBE? 15 A. We did not test for MTBE 16 for consumer complaints, so we would not 17 have made that correlation. 18 Q. And my question, though, is 19 recognizing you didn't test for MTBE 20 from consumer complaints, there 21 obviously were some circumstances that 22 you have identified to us that fell into 23 a different category and necessitated a 24 response, which depending upon the</p>	<p>1 Q. Had your division ever 2 attended meetings of community groups in 3 Queens to respond to taste and odor or 4 water quality complaints? 5 A. I believe so. 6 Q. Have you personally ever 7 attended any of those? 8 A. No, I have not. 9 Q. And with respect to the 10 community groups in Queens, are there 11 any instances which you can identify for 12 us in which the City responded to 13 complaints from a community group 14 related to concerns about MTBE in the 15 water system creating taste and odor 16 problems? 17 A. Specifically MTBE? 18 Q. Yes, ma'am. 19 A. No. 20 Q. Any instances you can 21 recall where community groups complained 22 about gasoline being present in the 23 groundwater area and possibly affecting 24 taste and odor, be it through MTBE or</p>

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